

245022

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
Docket No. 2013-55-C

In Re: South Carolina Telephone Coalition Petition)
to Modify Alternative Regulation Plans Filed)
Pursuant to S.C. Code Ann. § 58-9-576(B) to)
Take Into Account Recent Action by the Federal) **PROTECTIVE ORDER**
Communications Commission)
_____)

245022
#1

This matter comes before the Hearing Officer on the Renewed and Clarified Motion of the South Carolina Cable Television Association ("SCCTA") for an order allowing the Office of Regulatory Staff ("ORS") to make available under a protective order certain documents submitted to ORS in connection with the operation of the South Carolina Universal Service Fund ("USF"). The Renewed Motion on its face applies to documents submitted to ORS by all members of the SCTC. The SCCTA has agreed to limit its request for documents to the six companies that have filed tariffs increasing their basic local residential rates. This limitation is agreed to by the SCCTA without prejudice to its right to seek production of similar documents from other companies and without prejudice to the right of SCTC or its members to oppose any such request.

The Renewed Motion is granted as it applies to the six companies that have filed tariff revisions making changes to their basic local residential rates , *i.e.*, Chester Telephone Company; Home Telephone ILEC, LLC d/b/a Home Telecom; Lockhart Telephone Company; PBT Telecom, Inc.; Ridgeway Telephone Company; and West Carolina Rural Telephone Cooperative, Inc. (the "RLECs"). The Hearing Officer, on behalf of the Commission, adopts the following Order to

facilitate the provision of information while adequately protecting material entitled to confidential, proprietary, or trade secret protection:

1. **Definition of Confidential Information.** The term “Confidential Information” refers to the last three years of annual USF data filings by the RLECs. While SCCTA requested that the information be provided to SCCTA by ORS, it is recognized that the information in question is confidential and proprietary to the RLECs as explained in Commission Order No. 2005-139 in Docket No. 1997-239-C and, therefore, each of the RLECs and ORS are considered to be the producing parties.

2. **Definition of Proceeding.** The term “this Proceeding,” for purposes of this Protective Order, shall include only the Docket in which this Order is entered and any appeals thereof.

3. **Designation of Material as “Confidential Information.”** Confidential written information shall be so indicated by clearly marking each page, or portion thereof, for which a Confidential Information designation is claimed with a marking such as “Confidential” or other markings that are reasonably calculated to alert custodians of the material to its confidential or proprietary nature.

4. **Permissible Disclosure of Confidential Information.** No Confidential Information may be disclosed by the party to which it is disclosed in the Proceeding to any person except as provided in this Paragraph.

(A) Confidential Information provided pursuant to this Protective Order may be disclosed without prior written consent to the following persons, but only in prosecuting the Proceeding, and only to the extent necessary to assist in prosecuting the Proceeding:

(i) Counsel of record representing a party in the Proceeding and any legal support personnel (e.g., paralegals and clerical employees) acting at the direction of counsel.

(ii) Outside (third party) consultants and experts who have no involvement in decision making or consulting with any party regarding marketplace competition, sales, pricing, marketing, market research, market penetration, network design, cost analysis or other competitively sensitive areas. Individuals who become reviewing representatives under this paragraph agree that they will not use the Confidential Information made available in the Proceeding to engage or consult in the development, planning, marketing, procurement, manufacturing, pricing or selling of telecommunications or information services, equipment, software or other offerings, strategic or business planning, competitive assessment, and/or network planning, operations or procurement.

(iii) Court reporters, stenographers, or persons operating audio or video recording equipment at hearings or depositions.

Persons obtaining access to Confidential Information under the provisions of this Paragraph 4(A) shall not disclose information designated as Confidential Information to any person who is not authorized under this Paragraph 4(A) to receive such information, and shall not use the information in any activity or function other than in prosecuting the Proceeding. Each individual who is provided access to Confidential Information must receive a copy of this Order and sign, and have notarized, a statement affirmatively stating that the individual has reviewed this Protective Order and understands and agrees to be bound by the limitations it imposes on the signing party before being provided copies of any Confidential Information. The form of the notarized statement to be used is attached as Attachment A to this Order.

5. **Confidential Information Offered in Evidence or Filed in the Record.**

Confidential Information may be offered into evidence or in the record made by the parties and submitted to the Commission in the Proceeding provided that the submission is done *in camera* or under seal, as applicable. If Confidential Information will be made a part of the record in the Proceeding, the party desiring to offer the information into the record shall provide advance notice, either verbally or in writing, to the party who provided the Confidential Information and allow the providing party a reasonable time to ask the Commission to impose protective measures to preserve the confidentiality of the Confidential Information.

6. **Subpoena by Courts or Other Agencies.** If a court or administrative agency subpoenas or orders production of the Confidential Information which a party has obtained under the terms of this Protective Order, such party shall promptly (within three (3) business days) notify the party (or other person who designated the document or non-written information as confidential) of the pendency of such subpoena or order to allow that party or other person time to object to that production or seek a protective order. A party that provides the notice required by this paragraph 6 will not be deemed in violation of this Protective Order by virtue of its compliance with the subpoena or order; provided that the party has allowed the notified party adequate opportunity to pursue any objection it may wish to make; and provided further that the party is still bound by this Protective Order in all other respects.

7. **Client Consultation.** Nothing in this Protective Order shall prevent or otherwise restrict counsel from rendering advice to their clients and, in the course thereof, relying generally on examination of Confidential Information provided, however, that in rendering such advice and otherwise communicating with such client, counsel shall not make specific disclosure or reference to any Confidential Information except under the procedures of paragraph 4 above.

8. **Use.** Persons obtaining access to Confidential Information under this Protective Order shall use the information only for preparation of and the conduct of litigation in the Proceeding and any related appeals or review proceedings, and shall not use such information for any other purpose, including business or commercial purposes, or governmental or other administrative or judicial proceedings.

9. **Non-Termination.** The obligations of the parties with respect to Confidential Information received pursuant to this Protective Order shall survive and continue after any expiration or termination of the Proceeding.

10. **Preservation of Rights.** Nothing in this Protective Order shall prevent any party from objecting to discovery or challenging the admissibility of any and all information and data that it believes to be otherwise improper.

11. **Responsibilities of the Parties.** The parties are responsible for employing reasonable measures to control, consistent with this Protective Order, duplication of, access to, and distribution of Confidential Information. A receiving party shall protect such Confidential Information by using the same degree of care (which shall be no less than reasonable care) to prevent its unauthorized disclosure as the receiving party exercises in the protection of its own confidential information.

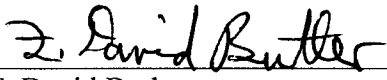
12. **Request for Additional Protection.** If a party believes information that is to be produced during this Proceeding should be afforded additional protection beyond that provided in this Order, the party may file a Petition seeking such additional protection. Any such Petition must describe the nature of the information at issue, explain why the information should be afforded additional protection, and specify with particularity the additional protection sought with regard to

the information. A party filing such a Petition is not required to produce such information prior to a ruling on the Petition, and any party may seek such a ruling on an expedited basis.

13. **Enforcement.** A party shall be entitled to seek enforcement of (or other appropriate relief, including sanctions pertaining to) this Protective Order before the Commission, or any other authority having competent jurisdiction, for any breach or threatened breach of this Protective Order. This Protective Order shall control the production and disclosure of all materials deemed "Confidential Information."

14. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE HEARING OFFICER:



F. David Butler

August 6, 2013
Columbia, South Carolina

ATTACHMENT A

STATE OF _____

COUNTY OF _____

CERTIFICATE OF AUTHORIZED REVIEWING REPRESENTATIVE

BEFORE ME, the undersigned authority, duly Commissioned and qualified in and for the State and County aforesaid, personally came and appeared _____ (insert name), who, being by me first duly sworn, deposed and said as follows:

I understand that the Confidential Protected Materials that will be provided to me in the Proceeding is being provided pursuant to the terms and restrictions of the Protective Order in South Carolina Public Service Commission Docket No. 2013-55-C, that I have been given a copy of and have read the Protective Order, and that I agree to be bound by it. I understand that the contents of "Confidential Information," and any notes, memoranda, or any other form of information regarding or derived from Confidential Information shall not be disclosed to anyone other than in accordance with the Protective Agreement and shall be used only for the purposes of the Proceeding as set forth in the Protective Order.

Signature: _____

Date of Execution: _____

Name: _____

Title: _____

Company: _____

Address: _____

Requesting Party: _____

SWORN TO AND SUBSCRIBED BEFORE ME on this ____ day of _____, 2013.

(NOTARY PUBLIC) (SEAL)

My Commission expires: _____